

# YOUTH SERVICES POLICY

<b>Title:</b> DNA Protocols <b>Next Annual Review Date:</b> 03/11/2014	<b>Type:</b> B. Classification, Sentencing and Service Functions <b>Sub Type:</b> 8. Youth Related Services <b>Number:</b> B.8.14
	<b>Page 1 of 6</b>
<b>References:</b> La. R.S. 15:601 through 620, the Rule promulgated by the Office of State Police in the Louisiana Register referenced as LR 27:205 and dated February 20, 2001 [Attachment B.8.14 (a)]; Act 1020 of the 2001 Regular Session of the Legislature; Act 487 of the 2003 Regular Session of the Legislature; YS Policies B.2.3 "Secure Care Direct Admission", B.5.1 "Youth Code of Conduct-Secure Care" and D.10.22 "Interstate Compact for Juveniles (ICJ)"	
<b>STATUS: Approved</b>	
<b>Approved By:</b> Mary L. Livers, Deputy Secretary	<b>Date of Approval:</b> 03/16/2012

## I. AUTHORITY:

Deputy Secretary of Youth Services (YS) as contained in La. R.S. 36:405. Deviation from this policy must be approved by the Deputy Secretary.

## II. PURPOSE:

To establish uniform procedures for the collection and transmission of youth DNA samples to the state DNA database maintained and administered by the Office of State Police.

## III. APPLICABILITY:

Deputy Secretary, Assistant Secretary, Undersecretary, Deputy Undersecretary, Chief of Operations, Deputy Assistant Secretaries, Facility Directors, Regional Managers, and any other staff who are responsible for collecting, submitting or overseeing the collection of DNA samples of youth in the secure custody of YS, or under YS supervision through the Interstate Compact for Juveniles (ICJ).

## IV. DEFINITIONS:

**Community Based Services (CBS)** - formerly known as the Division of Youth Services, including the regional probation and parole field offices located throughout the state.

**DNA** - deoxyribonucleic acid, which is located in cells and provides an individual's personal genetic blueprint and which encodes genetic information that is the basis of human heredity and forensic identification.

**DNA Analysis** - DNA typing tests that generate numerical identification information obtained from a DNA sample.

**DNA Database Buccal Collection Kit** - the kit provided by the Office of State Police for the collection of DNA samples.

***DNA Sample*** - biological evidence of any nature that is utilized to conduct DNA analysis.

***Felony*** - any crime for which an individual may be sentenced to death or imprisonment at hard labor.

***Felony-grade Delinquent Act*** - any offense that if committed by an adult may be punished by death or by imprisonment at hard labor. (Note: Adult as used in this definition includes a youth as per La. R.S. 15:609.)

Other specified offenses [Attachment B.8.14 (b)]

- A. A violation of La. R.S. 14:34.2 through 34.5;
- B. A violation of La. R.S. 14:35 through 37;
- C. A violation of La. R.S. 14:37.3;
- D. A violation of La. R.S. 14:38;
- E. A violation of La. R.S. 14:38.2;
- F. A violation of La. R.S. 14:40.2;
- G. A violation of La. R.S. 14:80.1;
- H. A violation of La. R.S. 14:82;
- I. A violation of La. R.S. 14:83 through 83.1;
- J. A violation of La. R.S. 14:83.3 through 83.4;
- K. A violation of La. R.S. 14:85 through 85.1; or
- L. A violation of La. R.S. 14:284.

***Interstate Compact (ICJ)*** - Agreement among compacting states to provide supervision of adjudicated juveniles and status offenders and return of absconders, escapees and runaways.

***Juvenile Electronic Tracking System (JETS)*** - the centralized database used to track all youth under OJJ supervision or custody, and to record youth case record activity.

***Regional Managers*** - Managers of the CBS offices located throughout the state.

***Unit Head*** - Deputy Secretary, Assistant Secretary, Undersecretary, Chief of Operations, Deputy Assistant Secretaries, Facility Directors, and Regional Managers.

***YS Central Office*** - Offices of the Deputy Secretary, Assistant Secretary, Undersecretary, Chief of Operations, Deputy Assistant Secretaries, and their support staffs.

**V. POLICY:**

Pursuant to La. R.S. 15:609, a youth who is adjudicated delinquent for the commission of a felony-grade delinquent act including an attempt, conspiracy, criminal solicitation, or accessory after the fact of a felony-grade delinquent act, or for the specified offenses listed in La. R.S. 15:603(9), is required to provide a DNA sample, and YS is obligated to collect and transmit these samples to the State Crime Lab. Therefore, it is the Deputy Secretary's policy that DNA samples shall be obtained in accordance with the law and this policy.

**VI. PROCEDURES-General:**

**A. Criteria for taking a DNA sample from a youth**

1. La. R.S. 15:609 provides that DNA samples must be taken from certain arrested persons.
2. A person who is arrested for a felony or other specified offense, including an attempt, conspiracy, criminal solicitation, or accessory after the fact of such offenses on or taken at the same time he is fingerprinted pursuant to the booking procedure.
3. For purposes of this Chapter, a youth who is arrested for an offense covered by this Chapter or adjudicated delinquent for the commission of a felony-grade delinquent act, including an attempt, conspiracy, criminal solicitation, or accessory after the fact of a felony-grade delinquent act shall be considered a person who is arrested for a felony or other specified offense.

**B.** DNA samples shall be collected only by employees who have been properly trained and approved to serve as collectors by the Louisiana State Police Crime Laboratory. Samples will be obtained using a DNA Database Buccal Collection Kit for DNA Analysis in accordance with the Rule promulgated by the Office of State Police [see Attachment B.8.14(a)].

**C.** Each Regional Manager and Facility Director shall ensure that necessary safety protocols are followed in accordance with the Rule promulgated by the Office of State Police.

**D.** DNA record keeping and the submission of samples to the DNA database shall be done in accordance with the Rule promulgated by the Office of State Police.

- E. When a DNA sample is obtained, JETS must be updated by the individual designated by the Facility Director or Regional Manager to document the sample was taken.

**VII. PROCEDURES-SECURE CARE YOUTH:**

- A. Each Unit Head shall ensure that all necessary procedures are in place to take a DNA sample from appropriate youth upon intake.
- B. The trained DNA collector(s) shall place the sample in the mail and enter the information into the Monthly DNA Collection Form. A copy of this form shall be placed in the youth's file and the original form shall be maintained in a file holding only Collection Forms.
- C. There shall be at least two trained collectors at each facility.

**VIII. PROCEDURES-YOUTH IN RESIDENTIAL OR DAY TREATMENT:**

- A. When a youth is adjudicated delinquent or enters into a plea agreement resulting in an adjudication for a felony or other specified offense including an attempt, conspiracy, criminal solicitation, or accessory after the fact of such offenses, and he will not be taken into a secure facility, the sample shall be taken by Regional Office staff unless it has been verified and documented that a DNA sample was previously taken.
- B. There shall be at least two trained collectors in each Regional Office.
- C. Each Regional Manager shall ensure that necessary safety protocols are followed in accordance with the Rule promulgated by the Office of State Police.
- D. The trained DNA collector(s) shall place the sample in the mail and enter the information into the Monthly DNA Collection Form. A copy of this form shall be placed in the youth's file, and the original form shall be maintained in a file holding only Collection Forms.
- E. Each Regional Manager shall ensure that all necessary procedures are in place to verify that a DNA sample has been obtained prior to a youth's release in any manner including inter-facility transfers and furloughs. The Regional Office does not have to take a repeat DNA sample if they possess written notification that a DNA sample was taken at the time of arrest; however, the Regional Office shall ensure that JETS reflects that the DNA sample was previously taken.

**IX. PROCEDURES - YOUTH UNDER ICJ SUPERVISION:**

- A. Youth who have been adjudicated of a felony or other specified offense, including an attempt, conspiracy, criminal solicitation or accessory after the fact of such offenses, and has been accepted to the state from another state under the interstate compact, the Regional Office shall take a DNA sample within three (3) days after the youth was reported to the Regional Office which will be providing active supervision.
- B. Each Regional Office shall ensure that necessary safety protocols are followed in accordance with the Rule promulgated by the Office of State Police.
- C. The trained DNA collector(s) shall place the sample in the mail and enter the information into the Monthly DNA Collection Form. A copy of this form shall be placed in the youth's file and the original form shall be maintained in a file holding only DNA Collection Forms.

**X. REFUSAL BY YOUTH TO SUBMIT SAMPLE - SECURE CARE FACILITIES:**

- A. For youth confined to secure care, the Facility Director/designee shall obtain a DNA sample from any youth who is required by statute to submit a sample. If the youth refuses to provide a sample, the Director/designee is authorized, pursuant to La. R.S. 15:609(I), to employ reasonable force as necessary to obtain the sample. Staff shall ensure that a video tape is made of the entire process and the procedure should be supervised by ranking custody staff.
- B. Youth in secure care facilities who refuse to provide a sample may be charged with any appropriate rule violation as outlined in YS Policy B.5.1 "Youth Code of Conduct - Secure Care". The Director shall notify the Deputy Secretary via an Unusual Occurrence Report.

**XI. REFUSAL BY YOUTH UNDER SUPERVISION TO SUBMIT SAMPLE:**

- A. If a youth under supervision refuses to submit a DNA sample, the PPO/J shall advise the youth that R. S. 15:609(I) permits law enforcement and YS officials to employ reasonable force to secure the required sample in cases where a person refuses to provide a DNA sample.
- B. If a youth fails to submit a DNA sample, the assigned PPO/J shall notify the Regional Manager of such failure to submit.
- C. Youth who refuse to provide a sample may be escorted to a local law enforcement office or secure-care facility for the taking of the DNA sample.

**XII. REFUSAL BY ICJ YOUTH TO SUBMIT SAMPLE:**

- A. If a youth under supervision refuses to submit a DNA sample, the Probation Officer shall advise the youth that R. S. 15:609(I) permits law enforcement and YS officials to employ reasonable force to secure the required sample, in cases where a person refuses to provide a DNA sample.
- B. If a youth fails to submit a DNA test, the assigned Probation Officer shall notify the Regional Manager of such failure to submit.
- C. Youth who refuse to provide a sample may be escorted to a local law enforcement office or secure-care facility for the taking of the DNA sample.

**Previous Regulation/Policy Number:** B-08-016 / B.8.14

**Previous Effective Date:** 03/15/2002



**Attachments/References:** B.8.14 (a) Office of State Police Rule.docx



B.8.14 (b) Other Specified Offenses For Which DNA Samples Must be Provided 2-9-12.docx